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C O N F I D E N T I A L SECTION 01 OF 03 MANILA 002503

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SUBJECT: AMBASSADOR CAUTIONS TOP OFFICIALS ON MARTIAL LAW

Classified By: Ambassador Kristie A. Kenney, reason: 1.4 (b and d).

SUMMARY

1. (C) Presidential Executive Secretary Ermita and Foreign Secretary Romulo separately assured the Ambassador December 6-7 that the government had only imposed martial law in portions of Maguindanao province in order to be able to prosecute members of the highly influential Ampatuan clan who were responsible for the November 23 massacre in Maguindanao. Without martial law, the Ampatuans' influence over local courts threatened to render judicial mechanisms ineffective, suspects could flee, and the government might face armed resistance from Ampatuan supporters. Both officials said the government might be able to rescind martial law in advance of the 60-day limit specified by the constitution, and, while martial law remained in effect, the government would only use martial law powers against the Ampatuans and their supporters, not to restrict the liberties of the general public or of the press. The Ambassador emphasized USG concern for human rights, our desire for a rapid and transparent investigation of the massacre, and welcomed the prospect of a fast rescission of martial law. End Summary.

MARTIAL LAW ESSENTIAL FOR JUSTICE

2. (C) The Ambassador spoke with presidential Executive Secretary Eduardo Ermita December 6 about the imposition of martial law in areas of Maguindanao province (septel). Ermita, who is President Arroyo's closest advisor and policy implementer, explained that it was necessary to impose martial law in order to conduct effective searches and arrest the suspects in the November 23 Maguindanao massacre. The Ampatuan family, whose leading members now are under arrest, had become too powerful and had the capability to resist arrest. The local courts were refusing to issue search or arrest warrants; judges feared their lives were in danger if they opposed the Ampatuans. The situation was deteriorating; it appeared as though leading suspects in the massacre might flee, and supporters of the Ampatuans could take up arms against the national authorities.

3. (C) Ermita explained the national government had raided additional houses belonging to the Ampatuans, and would continue to do so. The military authorities in Maguindanao had established checkpoints, but they were not restricting the movements of either ordinary civilians or of journalists. Martial law measures strictly and exclusively targeted those involved in the Maguindanao massacre. Ermita noted there had been widespread skepticism about President Arroyo's willingness to move against the Ampatuans; he assured the Ambassador that Arroyo would continue to aggressively pursue the investigation, wherever it might lead, and arrests would continue. (Providing a slightly different perspective,

Philippine Armed Forces spokesman LTC Romeo Brawner told the Ambassador December 4 that Arroyo and her advisors had a heated discussion over whether to declare martial law. According to Brawner's account, Arroyo was highly reluctant, while others argued it was a necessary step.)

NO INCIDENTS SO FAR

14. (C) Lieutenant General Raymundo Ferrer, as the senior military officer in the region of Eastern Mindanao, was in charge of military operations associated with the state of martial law in Maguindanao, Ermita said. Ermita characterized Ferrer as thoughtful and knowledgeable about local conditions. The Ambassador agreed with this assessment and said she felt encouraged, based on her previous contacts with Ferrer, that he was unlikely to provoke violence. Ermita noted he knew of no incidents in the first day of martial law, although a few people had complained of inconvenience associated with checkpoints in the province.

15. (C) Ermita clarified that the declaration of martial law did not entail appointing a top civilian executive. In accordance with constitutional provisions, current civilian officials would step up to take on the responsibilities of any officeholders detained in connection with the ongoing investigation. Ermita noted the investigation would likely implicate many current officeholders.

16. (C) The government was in the process of preparing its notifications to the Supreme Court and to Congress, Ermita

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explained. While the constitution permitted martial law for up to 60 days, the administration would be delighted to lift martial law sooner, if conditions were to permit. The administration's ability to do this would depend on progress in the massacre investigation.

SERIOUS STEP WITH HUMAN RIGHTS CONCERNS

17. (C) The Ambassador said she was very aware of the importance of investigating the massacre and the difficulty involved in confronting the Ampatuans. Clearly, though, imposing martial law was a serious step that worried many Filipinos, as they recalled human rights violations in the aftermath of former President Marcos' 1972 declaration of martial law. Ermita assured the Ambassador he, too, was aware of human rights concerns, and the government would make every effort to ensure martial law measures would affect only those involved in the massacre. He reiterated that the government's efforts aimed strictly to allow a serious investigation and the necessary arrests to proceed. He said that the strength of the Ampatuans' private army and the extent of the family's influence over the local government -- including the judicial system -- made martial law a precondition for an effective investigation. The government had anticipated criticism but was willing to make a tough choice in order to demonstrate that this sort of massacre was not acceptable, to make arrests, and to prevent reprisals.

18. (C) Ermita requested that the Ambassador publicly support the government's decision to impose martial law. The Ambassador replied noncommittally, saying she fully agreed that the scale and nature of the atrocity committed on November 23 called for a serious and thorough investigation. The Ambassador said she knew the complexity of the situation in Central Mindanao, and it was important that martial law in no way impinge on freedom of the press. Respect for human rights was critical, and that the sooner the government's objective could be achieved and the martial lifted, the better.

FOREIGN SECRETARY

¶9. (C) The Ambassador met as well with Foreign Secretary Alberto Romulo on December 7 to discuss the martial law decree. Romulo, who was tapped by Arroyo to explain the martial law decision to the international community, told the Ambassador he believed there had been no choice other than imposing martial law. The cabinet, he noted, had been appalled by both the massacre and the extent of the Ampatuans' arsenal. Given Ampatuan influence over the courts in Maguindanao, there was no other way to ensure legal processes would run their proper course. Romulo said Acting Justice Secretary Agnes Devanadera was moving quickly and forcefully to bring the perpetrators to justice, and Romulo hoped that conditions would permit a quick rescision of martial law.

¶10. (C) Romulo stressed that the current measures could not properly be compared to the Marcos-era imposition of martial law. The government was watching the situation carefully and would use its powers not to restrict liberties but to bring killers to justice; the government welcomed the presence of the media and the Philippine Commission on Human Rights in Maguindanao. Romulo predicted that the Congress -- which would convene late in the afternoon on December 8 in a joint session focused on the declaration of martial law -- would approve the administration's approach.

¶11. (C) The Ambassador told Romulo that, while the USG understood and shared the horror Filipinos felt about the massacre, we also understood the anxiety that martial law evoked. The Ambassador noted USG concern for respect of human rights and welcomed Romulo's assessment that the government would likely be able to lift martial law well in advance of the 60-day limit.

COMMENT

¶12. (C) Critics of President Arroyo's December 5 decree have suggested that there were other measures short of martial law to achieve the same ends. Still, Ermita and Romulo are two of our most credible government interlocutors, so we take at face value their core points, which provide the simplest and most credible explanation for the Cabinet's actions: the

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government believed that the Ampatuans, who acted with impunity on their own turf, had enormous influence over the local courts and a frighteningly well-armed militia; the Cabinet clearly saw martial law, despite its highly negative connotations, as the best way to ensure accountability for the November 23 massacre. Nonetheless, we will continue to watch the situation carefully and encourage both respect for human rights and a rescision of martial law as soon as practicable.
KENNEY